

HUMAN SERVICES BOARD

In re) Fair Hearing No. 19,465
)
Appeal of)

The petitioner appeals a decision by the Department for Children and Families, Economic Services reducing her Food Stamps. The issue is whether the Department correctly averaged the petitioner's earnings as a teaching assistant over the period covered by her current contract.

1. The petitioner lives with her minor child. She receives child support of \$600 a month. She is currently employed hourly as a teaching assistant by her local school district.

2. The petitioner's job pays her \$10.70 an hour for a 6.5-hour workday over a 180-day school year. It appears that this totals about \$12,519 for the entire school year. The school year began on August 25, 2004, and runs to June 15, 2005. The petitioner is also taking college courses.

3. Prior to taking the teaching job the petitioner received Food Stamps of \$250 a month. After she reported

this additional income as part of a review of her case in October 2004, the Department notified her on December 1, 2004, that effective January 1, 2005, her Food Stamps would be reduced to \$10 a month.

4. The Department represents that it determined the petitioner's monthly income by averaging the petitioner's total anticipated contract payments over the ten-month school year. The amount of gross income the Department actually attributed to the petitioner in its calculations was \$1,121.48 a month, which is about \$100 a month less than dividing the total contract amount of \$12,519 by 10. (However, because the Department's calculation clearly favors the petitioner, the Board need not delve further into this apparent discrepancy.)

5. The Department also determined that the petitioner was eligible for a standard deduction of \$134, a 20 percent earned income deduction of \$224.30, and a shelter/utility deduction of \$388 a month. All of these deductions appear to be the maximum allowed under the regulations based on the petitioner's income and reported expenses. See Id. § 273.9(d).

6. The above calculations led the Department to determine that the petitioner has countable Food Stamp income

of \$975.18 a month, which yielded a Food Stamp allotment of \$10 a month for the petitioner's two-person household.

ORDER

The Department's decision is affirmed.

REASONS

The rules governing determination of income for Food Stamps provide that all earned and unearned income is included. Food Stamp Manual § 273.9(b). Specific provisions further allow the Department to average the income of a household with varying monthly earnings. Id. § 273.10(c)(3). In this case, even if the Department allowed the petitioner to average her earnings over a twelve month period, instead of the ten month school year, she would still only be eligible under the regulations for a \$10 a month Food Stamp allotment.¹ Id. § P-2590D(2).

Inasmuch as the Department followed its regulations in the petitioner's case and allowed her what appears to be the most beneficial method of determining her earned income,² its

¹ Thus, it is clearly to the petitioner's benefit that the Department used a ten month calculation period because the petitioner can reapply for Food Stamps as soon as the school year is over without having this income attributed to any month beyond June 2005.

² Even if the petitioner's Food Stamps were calculated on a month by month basis depending on how many school days were actually scheduled that

decision regarding the reduction of the petitioner's Food Stamps must be affirmed by the Board. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

#

month, even in her lowest month (February) her income would not make her eligible for more than \$10 in Food Stamps.